

provisions of this part and its applicability to the programs or activities conducted by the Agency, and make such information available to them in such manner as the Administrator finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

**§§ 136.112–136.129 [Reserved]**

**§ 136.130 General prohibition against discrimination.**

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

(b) The Agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(4) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(5) Deny a qualified individual with handicaps the opportunity to participate as a member of planning, voluntary (such as SCORE or Ace) or advisory boards; or

(6) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advan-

tage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(c) The Agency shall permit a qualified individual with handicaps the opportunity to participate in any of the Agency's programs or activities, despite the existence of permissibly separate or different programs or activities especially designed to accommodate qualified individuals with handicaps.

(d) The Agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(1) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(2) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(e) The Agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would:

(1) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the Agency; or

(2) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(f) The Agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(g) The Agency may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the Agency establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the Agency are not, themselves, covered by this part.

(h) The exclusion of individuals without handicaps from the benefits of a program limited by Federal statute or Executive Order to individuals with handicaps or the exclusion of a specific

class of individuals with handicaps from a program limited by Federal statute or Executive Order to a different class of individuals with handicaps is not prohibited by this part.

(i) The Agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

**§§ 136.131–136.139 [Reserved]**

**§ 136.140 Employment.**

(a) No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program, or activity conducted by the Agency.

(b) The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) as established by the EEOC in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

**§§ 136.141–136.148 [Reserved]**

**§ 136.149 Program accessibility: Discrimination prohibited.**

Except as otherwise provided in § 136.150, no qualified individual with handicaps shall, because the Agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

**§ 136.150 Program accessibility: Existing facilities.**

(a) *General.* The Agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the Agency to make each of its existing facilities accessible to and usable by individuals with handicaps; or

(2) Require the Agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Agency personnel believe that the pro-

posed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Agency has the burden of proving that compliance with § 136.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Administrator or Deputy Administrator after considering all Agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. The Administrator or Deputy Administrator's decision shall be made within 30 days of the initial decision by Agency personnel that an action would result in such an alteration or burdens. If an action would result in such an alteration or such burdens, the Agency shall take any other action that would not result in such an alteration or such burdens but would, nevertheless, ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.* The Agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The Agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in